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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,949	03/25/2004	Robert Aigner	068758.0180	6346

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EXAMINER

TUGBANG, ANTHONY D

ART UNIT

PAPER NUMBER

3729

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,949

Applicant(s)

AIGNER ET AL.

Examiner

A. Dexter Tugbang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 3-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/25/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the invention of Group I, Species A, Claims 1 and 2 in the reply filed on 1/5/05 is acknowledged.
2. Claims 3-30 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/5/05.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because of the use of an already implied phrase, i.e. "The invention" (line 2, page 26 of specification). Correction is required. See MPEP § 608.01(b).
5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: A Method of Producing a Piezoelectric Component.

Claim Objections

6. Claim 1 is objected to because of the following informalities: the phrase of “the region” (line 6) should be recited as --a region--; and the phrase of “which layer” (line 7) should be recited as --in which the layer--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1, the step of “patterning...produced” (lines 10-12) is confusing and misleading, rendering the claim as being vague and indefinite. With emphasis on the terms of “only” (line 10) and “if appropriate” (same line), each of these terms completely contradict one another because the term “only” implies that the “third electrically conductive layer” is patterned excluding the patterning of any other layers. Yet, the phrase of “if appropriate” implies that the “third electrically conductive layer” is not the only layer that can be patterned. So are both the “third electrically conductive layer” and the “second piezoelectric layer” patterned or not?

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Berlincourt et al 3,590,287.

Berlincourt discloses a method of producing a piezoelectric component comprising: providing a substrate 12 (in Fig. 1); producing one bottom electrode 18 on the substrate from a first electrically conductive layer applied on the substrate; applying a layer stack on the substrate at a region of the bottom electrode in which the layer stack comprises, beginning with the bottommost layer, a first piezoelectric layer 14, a second electrically conductive layer 20, a second piezoelectric layer 16, and a third electrically conductive layer 22; patterning both the third electrically layer and the second piezoelectric layer by vapor deposition (see col. 3, line 61 to col. 4, line 23) such that at least two stacked crystal filters or resonators are produced; and contact-connecting the third electrically conductive layer with lead 34.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berlincourt et al in view of Nakatani 4,503,350.

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Berlincourt discloses the claimed manufacturing method as relied upon above and further including contact-connecting the second electrically conductive layer with lead 36. Berlincourt does not teach that at least one opening is formed in the second piezoelectric layer.

Nakatani teaches that at least one opening (groove 11 in Fig. 9) can be formed in the second piezoelectric layer 1 to affect the weight ratio and advantageously suppress the spurious mode of thickness vibration (see col. 4, lines 17-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the second piezoelectric layer of Berlincourt by forming at least one opening, as taught by Nakatani, to advantageously suppress the spurious mode of thickness vibration of the crystal filter.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Dexter Tugbang whose telephone number is 571-272-4570.

The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'A. Dexter Tugbang', is written over the printed name.

A. Dexter Tugbang
Primary Examiner
Art Unit 3729

February 3, 2005